

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4887 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHANDULAL HARJIVANDAS

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner
MR SAMIR DAVE for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/12/96

ORAL JUDGEMENT

The matter was called out for hearing in the first round then in the second round in first sitting and in the third round in second sitting, but none put appearance on behalf of the petitioner.

Heard learned counsel for the respondent and perused the record. Having gone through the order of the respondent dated 6-6-1987, I do not find any illegality

therein which calls for interference of this court. The question whether there was sufficient cause by which the petitioner was prevented from filing the appeal within time before the appellate authority is a question of fact as well as a matter of discretion of the appellate authority and in case from the facts which have come on record the delay in filing of the appeal has not been condone then it cannot be said to be arbitrary or perverse order. This court sitting under Article 227 of the Constitution of India will not correct all species of hardship and wrong decisions. Sitting under the aforesaid Article this court cannot assume unlimited prerogative. It must be restricted to cases of grave dereliction of duties and flagrant abuse of fundamental principles of law or justice where grave injustice would be done unless this court interferes. That is not the case here.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated.

zgs/-